



STATE OF DELAWARE
JUSTICE OF THE PEACE COURT NO. 13
1010 CONCORD AVENUE
CONCORD PROFESSIONAL CENTER
WILMINGTON, DELAWARE 19802

TELEPHONE: (302) 577-2550

PLAINTIFF

Terry Apartments
George Wanner, Agent
2400 N. Broom Street
Wilmington, De. 19802

v.

CIVIL ACTION NO: JP13-10-008163

DEFENDANT

Lamotte Cephas
2400 North Broom Street
Apt. #202
Wilmington, De. 19802

ORDER

Trial De Novo was heard August 24, 2010. Plaintiff Terry Apartments (hereinafter Terry Apartments) was represented by Daniel Losco, Esq. Defendant Lamotte Cephas (hereinafter Cephas) was self-represented.

This is an appeal from a decision dated July 20, 2010, awarding \$189.45 plus \$41.50 court costs and possession with \$3.55 per diem in favor of Terry Apartments. Cephas filed an appeal of that decision August 6, 2010.

As a pre-trial matter, Terry Apartments moved for dismissal of the appeal on the basis the appeal was not filed in a timely manner. Cephas argued that the appeal should be allowed because he was hospitalized. The documentation from the hospital shows that Cephas was hospitalized on August 2, 2010, and discharged August 6, 2010. The final date for appeal of this case was July 27, 2010.

(2)

Terry Apartments points out that Cephas did not file the appeal until 17 days after judgment was entered. They contend that the Court lacks jurisdiction of the appeal because it was not filed within the time prescribed by statute.

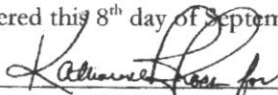
25 Del.C. §5717 (a) in pertinent part reads:

- a) Non-jury trials. With regard to non-jury trials, a party aggrieved by the judgment rendered in such proceeding may request in writing, within 5 days after judgment, a trial de novo before a special court comprised of 3 Justices of the Peace other than the Justice of the Peace who presided at the trial...

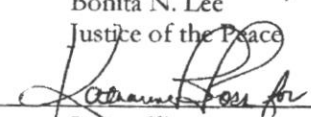
The Court agrees with Terry Apartments. The three-judge panel lacks jurisdiction to hear this matter because Cephas failed to file an appeal within the time limit set forth in 25 Del.C. §5717 (a).

Therefore, Cephas's appeal is dismissed for lack of jurisdiction and the original judgment entered July 20, 2010 stands.

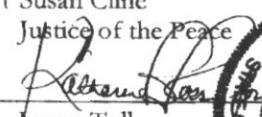
It is so ordered this 8th day of September, 2010.



Bonita N. Lee
Justice of the Peace



Susan Cline
Justice of the Peace



James Tull
Justice of the Peace

